

# **EXHIBIT 4**



A Conversation With Class Action Objector Ted Frank

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Body

Ted Frank is on a mission to curb abusive class action settlements. Since mid-2009, his fledgling nonprofit group, the Center for Class Action Fairness, has filed objections to 17 settlements that he believed provided little, if any, benefit to class members, but showered plaintiffs lawyers with outsized fees. To date he's convinced federal judges to reject or modify six settlements, including an Apple securities settlement that was modified, which we reported on here. He currently has eight objections pending in federal district courts, including a motion he filed this week to enforce a settlement involving computer chip maker NVIDIA. Frank claims that the company has reneged on a promise to replace defective Hewlett-Packard computers with similar machines.

The 42-year-old Frank, who clerked for Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit, began his legal career as an associate at Kirkland & Ellis, Irell & Manella, and O'Melveny & Myers. He was previously a resident fellow with the American Enterprise Institute and he now writes a blog that appears on the Manhattan Institute's website, called Pointoflaw.com.

The Litigation Daily talked to Frank about his work as a professional objector.

Litigation Daily: What made you decide to get into the role of challenging class action settlements? Was there a particular settlement that really bothered you?

Ted Frank: On a whim in 2008 I objected to a settlement where I was a class member--the Grand Theft Auto [video game] settlement. I discovered that that brought more attention to the issue than any law review article I would write. On top of it I scuttled a very bad settlement. After the publicity from Grand Theft Auto, i started getting phone calls from other class members. in the best tradition of Rabbi Hillel, I asked: If if not me, who? And if not now, when? I think I can accomplish more by litigating than pontificating.

LD: Are you opposed to class actions in principle?

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TF: No. When appropriately administered, with appropriate procedural protections, it's the right way to aggregate litigation by numerous claimants. Judges are supposed to make sure everything is happening on the up and up, but without some sort of ombudsman to insist on this, not every judge will do this. It's astonishing to me we still see settlements with worthless coupons. But I do have sympathy for these judges who have very crowded dockets.

LD: Do you think class action plaintiffs lawyers are making too much money off of these cases?

TF: I think they are disproportionately paying themselves relative to what their clients are receiving. I saw a case last week where the attorneys filed a complaint and there was no motion practice, and the company agreed to pay a nuisance settlement of \$3.5 million. The attorneys filed a 33 percent fee request. They could not have put in more than a few hours of work. We really wanted to object to this fee request, but we didn't have the bandwidth to do it.

LD: Have you had some unpleasant conversations with plaintiffs lawyers in these cases?

TF: Yeah. Some law firms simply lie about me in their pleadings. They claim I'm trying to extort a piece of the settlement for myself. I've never agreed to a quid pro quo settlement. [In a quid pro quo settlement, the objector agrees to drop his action in exchange for a slice of the fees.] It's ironic that [in the NVIDIA case] Milberg issued a press release stating that I have an anti-consumer agenda when they're the ones arguing against the consumers I represent in my motion. But I also had Mark Lanier--perhaps the greatest living trial lawyer who hasn't been convicted of a felony--tell me he liked what I was doing because there are a lot of class action lawyers who are ripping off their clients. [The Litigation Daily reached out to Lanier to confirm if he said this, but didn't hear back.]

LD: Have you gotten grief from the defense side? After all, they were hoping to get rid of these cases in which you're filing objections.

TF: I've had a variety of reactions. I've had defense attorneys and general counsels come up to me and say, we really appreciate what you're doing but you're wrong in this case. But I've been surprised that some defense lawyers have gone up against me as hard as some plaintiffs lawyers. It seems very short-sighted for them to complain that I'm a tort reform advocate.

LD: Have you ever been awarded fees in a case as an objector?

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TF: We have been awarded fees as an objector in a case called Lonardo v. Travelers Indemnity, where our objection resulted in an extra \$2 million to the class. We're planning to file a fee application in the Apple securities class action where we got \$2 million more for the class. We have a bright line. We won't ask for fees unless the class gets a pecuniary benefit.

LD: How are you making a living from this?

TF: We're a project of a 501(c)(3) organization and it pays me as an independent contractor to manage the project. I'm making less than a junior associate, but I can still pay the mortgage.

LD: Who are some of the major contributors to your organization?

TF: Our donors consist of charitable foundations and independent individuals who like what we're doing.

LD: Can you name some of them?

TF: I'd prefer not to get into that.

LD: Does your work for the Center take up most of your working day?

TF: It's turned into that and is also taking up most of my leisure time, too. It's the main focus of my life now.

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